

# Calendar No. 994

68TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
No. 924

## PURCHASE OF THE CAPE COD CANAL PROPERTY

JANUARY 22 (calendar day, JANUARY 24), 1925.—Ordered to be printed

Mr. FERNALD, from the Committee on Commerce, submitted the following

### REPORT

[To accompany H. R. 3933]

The Committee on Commerce, to whom was referred the bill H. R. 3933, having considered the same, report thereon with the recommendation that the bill do pass without amendment.

The bill was referred to a subcommittee which held hearings on December 8 and 10, 1924, and on January 14, 1925, and which gave the subject most careful consideration, reporting favorably on same to the whole committee January 22, 1925, at which time a majority of the committee concurred in the report of the subcommittee.

The report of the House Committee on Interstate and Foreign Commerce, February 11, 1924, is hereby incorporated as a part of this report.

[House Report No. 181, Sixty-eighth Congress, first session.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill H. R. 3933, having considered the same, report thereon with a recommendation that it pass.

1. The first section of the bill provides for ratification by Congress of the contract or agreement dated July 29, 1921, executed by the Boston, Cape Cod & New York Canal Co., and which is printed in House Document No. 139, Sixty-seventh Congress, second session, upon one condition, namely, that the canal company shall file with the Secretary of War its consent in writing that paragraph 8 of such contract be amended so as to eliminate all claims of any nature whatsoever it may have against the President, the Director General of Railroads, or the United States; and so as to eliminate any claims or demands the Director General of Railroads may have against the company growing out of Federal control. It is understood that the canal company now has a claim for compensation for the use of the canal during the period it was under Federal control, amounting to approximately \$1,000,000. Under paragraph 8 of the contract above referred to the company, in the event of purchase by the Federal Government of the canal property, would still have the right to prosecute this claim. It is understood also that the Government has a claim against the canal company for "deferred maintenance" and for capital expenditures during the same period amounting to approximately \$550,000. Under the terms of the bill both these claims, as well as all other claims that the canal company may have against the Government, are to be settled by waiver and release, as provided in a new paragraph of the contract to be substituted for the paragraph numbered 8 in the contract as originally drawn. Section 2 of the bill provides that the sum of \$5,500,000 is authorized to be appropriated for the

acquisition by purchase of the Cape Cod Canal and other property referred to in paragraph 1 of the contract. Section 3 provides that when certain certificates by the Secretary of War and the Attorney General have been filed to the effect that the necessary consent has been given to the modification of the contract provided in section 1 and that the title to the property has passed to the United States, the Secretary of the Treasury is authorized to pay at maturity the principal of the bonds referred to in the contract, and also all interest coupons thereon falling due after the passage of this act; also interest coupons which have fallen due after December 31, 1921, and on or before the passage of this act. The Secretary of the Treasury is also authorized to pay before maturity as provided in the contract, the face value of the bonds, amounting to \$6,000,000, or any part thereof.

2. The committee held two hearings on the bill. On January 9, 1922, the Secretary of War, the Secretary of the Navy, and the Secretary of Commerce all appeared and unequivocally indorsed the purchase of the Cape Cod Canal by the Federal Government as proposed in this bill. Further hearings on the bill before this committee were held from April 13, 1922, to May 3, 1922, at which time there appeared various master mariners, representatives of commercial and marine organizations, an officer of the United States Army Engineers, officials of the canal company, and representatives from the United States Shipping Board Emergency Fleet Corporation and United States Railroad Administration. The hearings had been widely advertised throughout the country in the public press. Everybody appeared either voluntarily or by invitation of the committee whose testimony was thought by any member of the committee to be helpful to the committee in arriving at a just conclusion. All the testimony adduced at these hearings strongly indorsed the proposed purchase and emphasized particularly the commercial importance of this new link in the chain of Atlantic intercoastal waterways. No opposition whatever to the proposed bill was voiced at these hearings.

3. The contract, ratification of which is proposed by this bill, is contained in the following proposal of the Boston, Cape Cod & New York Canal Co. and acceptance thereof by the Secretary of War:

PROPOSAL OF BOSTON, CAPE COD & NEW YORK CANAL CO. FOR THE SALE OF CAPE COD CANAL.

Whereas in accordance with the act of Congress of August 8, 1917, entitled "An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes" (40 Stat. L. 250, 262), negotiations have been entered into with John W. Weeks, Secretary of War, for the purchase of Cape Cod Canal, including all property, franchises, and appurtenances used or acquired for use in connection therewith or appertaining thereto, said Secretary, together with the Secretary of the Navy and the Secretary of Commerce, after investigation as provided by that act, being in favor of the acquisition of the canal by the United States:

Now, therefore, the undersigned, Boston, Cape Cod & New York Canal Co., a corporation of the Commonwealth of Massachusetts, pursuant to the provisions and limitations of said act, which is hereby made a term of this instrument, does hereby make to the Secretary of War the following offer:

1. The company will convey to the United States in fee simple, by good and sufficient deed with full covenants of warranty, free and clear of all taxes, liens, and encumbrances, the Cape Cod Canal owned by the company and more particularly described in the decree of condemnation entered by the District Court of the United States for the District of Massachusetts in a cause there pending, numbered 1698, civil

docket, entitled "The United States of America, petitioner for condemnation, v. Certain Lands in the Towns of Sandwich and Bourne, in the County of Barnstable, in the district of Massachusetts," subject to such easements, reservations, and restrictions as are set forth in said decree to which reference is hereby made, and to the mortgage hereinafter referred to; together with all franchises, rights, privileges, and easements thereunto appurtenant or in anywise appertaining, and together with all buildings, structures, breakwaters, wharves, docks, gates, highways, bridges, passing places, rights of way, mooring facilities, ferries, vessels, tugs, and other floating equipment, railways, engines, cars, and other rolling stock, lighthouses, lights, buoys, beacons, audible signals, light signals, telegraph, telephone, and power poles, wires and instruments, semaphores, fences, electric light and power plants, gas plants, office and office buildings, machinery, tools, and appliances, in, upon, over, or in any way pertaining to or connected with the lands therein described. The company will convey or cause to be conveyed by special warranty deed an additional tract of land containing approximately 932 acres now owned by Cape Cod Construction Co., adjoining the lands described in the aforesaid decree of condemnation, identified and described in Schedule A hereto annexed. The properties mentioned in this paragraph are hereinafter referred to as the canal.

2. The conveyance herein proposed is, however, to be subject to a certain indenture of mortgage embracing certain lands described in paragraph 1, executed January 1, 1910, to Old Colony Trust Co., as trustee, to secure payment of the company's 50-year first mortgage 5 per cent gold bonds, due January 1, 1960, aggregating \$6,000,000. The United States as part of the purchase price below mentioned shall assume the payment of these bonds, including all interest coupons falling due on and after January 1, 1922. The company will furnish satisfactory evidence of the payment of all interest coupons falling due prior to January 1, 1922.

3. If Congress ratifies this agreement, the company agrees that the depth of the canal prism at the time title passes to the United States will be not less than 25 feet.

4. Until Congress ratifies this agreement and title passes to the United States the company will operate the canal. If, after paying all operating and maintenance expenses hereafter arising, interest hereafter accruing on present floating indebtedness, administration charges hereafter arising, and the cost of establishing the depth mentioned in paragraph 3, any balance remains in the company's treasury from revenues received by it subsequent to the date of this offer, the company agrees to pay this balance to the United States at the time title passes; but the company further agrees that in any event this balance will be at least \$100,000.

5. The company offers to sell the canal to the United States for \$11,500,000, as follows: \$5,500,000 in cash, payable when Congress ratifies this agreement and upon delivery of deeds of conveyance as provided herein, and the assumption by the United States of the payment of the bonds mentioned in paragraph 2, including interest coupons maturing on and after January 1, 1922.

6. The company agrees that at any time after title to the canal passes the United States shall have an opportunity of discharging the lien of all bondholders at a cost no greater than par and accrued interest, and that any obligation on the part of the United States under this contract is on condition that the company at the time the purchase price is paid shall deliver a written agreement by the owners of at least 95 per cent of the bonds mentioned in paragraph 2 (the bonds to be stamped in such a way as to make the agreement binding on subsequent holders), that they or subsequent holders will surrender for cancellation and accept payment of the bonds at their par value together with accrued interest at such place and on any interest installment date the Secretary of the Treasury may designate, notice of the time and place of payment to be given by publication for 10 consecutive days in any newspaper in New York City he may select, the first publication to be at least six months prior to the date fixed for payment.

7. If, pursuant to the stipulation in paragraph 6, the company shall fail to deliver a written agreement by the owners of all of the bonds but signed by the owners of 95 per cent or more of the bonds, or if on failure to deliver an agreement signed by that number the United States shall waive performance of this condition, the company agrees in either of these events that in case the United States shall institute against such nonconsenting bondholders proceedings to condemn the lien of the mortgage mentioned in paragraph 2 and to discharge the canal therefrom, it will on demand pay to the United States whatever sum, if any, is adjudged necessary to compensate such nonconsenting bondholders over and above the par value of their bonds, plus accrued interest unpaid at the date of such judgment. As security for the performance of the company's obligations under this paragraph, it agrees to furnish and from time to time to renew a bond in such amount and in such form and with such sureties as the Secretary of the Treasury may require.

8. The canal was taken over by the President and operated by the Director General of Railroads from about July 25, 1918, to about March 1, 1920. A claim for compensation for the use of the canal during the period just mentioned has been presented to and disallowed by the board of referees constituted under the Federal control act of March 21, 1918, as amended. If the company decides to prosecute its claim by petition to the Court of Claims, it agrees that the court shall deduct from any judgment recovered by the company all sums fairly and reasonably expended by the Director General of Railroads for deferred maintenance and for capital expenditures during the period he operated the canal.

9. Upon the acceptance of this offer by the Secretary of War the suit mentioned in paragraph 1 shall be stayed until Congress approves or disapproves of this agreement. This agreement, however, shall be without prejudice to the rights of either party in said condemnation suit or any other proceeding or suit, in case Congress shall not ratify this agreement.

10. The company further agrees, in case this offer is ratified by Congress, to furnish at its own expense all abstracts, official certifications, and other evidences of title to the canal which may be required, and to execute deeds as herein provided conveying valid fee simple title satisfactory to the Attorney General.

In witness whereof the company has caused this instrument to be executed by its duly authorized officer and its corporate seal to be hereunto affixed this 29th day of July, 1921.

[SEAL.]

BOSTON, CAPE COD & NEW YORK CANAL Co.  
By AUGUST BELMONT, *Its President.*

John W. Weeks, Secretary of War, acting under and in accordance with the provisions, terms, and restrictions of the act of Congress approved August 8, 1917, above referred to, hereby accepts the foregoing proposal of Boston, Cape Cod & New York Canal Co. to convey to the United States at its option the canal property described in said act and in this instrument upon the terms and conditions set forth therein, subject to future ratification and appropriation for the purchase thereof by Congress.

Dated at Washington July 29, 1921.

JOHN W. WEEKS, *Secretary of War.*

#### SCHEDULE A.

Following is the list of lands owned by Cape Cod Construction Co., title to which Boston, Cape Cod & New York Canal Co. agrees to convey to the United States. Reference is made for particular descriptions to the various deeds appearing of record in Barnstable County, Mass., in the books and pages of the register of deeds which are set opposite the names of the previous owners of each parcel of these lands. Portions of these lands have been conveyed, but the acreage now remaining of each parcel still owned and subject to this contract is set forth in detail in the list below.

Previous owners.	Recorded deed Barnstable Co.		Acreage still owned lying north of canal location.	Acreage still owned lying south of canal location.
	Book.	Page.		
Thomas L. Livermore.....	298	303	275.20	189.89
De Witt C. Flanagan.....	297	102	13.60	38.10
Do.....	305	136		
Edward Sullivan.....	298	363		1.50
Do.....	298	363		2.00
Do.....	298	363		7.10
Mary Fessenden.....	309	30		1.70
E. H. Eldridge.....	305	15-17	111.95	
Estate of S. Blackwell.....	303	294	1.68	
Theophilus King.....	301	157	2.20	
T. Cornish.....	298	559	3.00	
Emory Gibbs.....	307	555	1.13	
H. F. Cunningham et al.....	307	553	1.38	
Ellen S. Eldridge.....	305	15	3.25	
Nathan Nye.....	323	334	4.92	



Previous owners.	Recorded deed Barnstable Co.		Acreage still owned lying north of canal location.	Acreage still owned lying south of canal location.
	Book.	Page.		
Estate of Isaac N. Keith.....	302	62	2.20	.....
Laura A. Crowell.....	315	45	1.00	.....
Calvin Crowell.....	283	199	2.24	.....
Lydia A. Battles (Chas. M. Thompson).....	295	205	.47	.....
Elmer L. Shurtleff et al.....	288	544-545	.24	.....
Nathaniel West.....	292	108	.....	.41
Harriett C. Dykes.....	305	211	.....	.04
J. F. & Olin F. Ellis.....	298	419	.....	4.93
Do.....	315	195	.....	.48
J. C. Packard.....	313	172	.....	.19
Edward S. Ellis.....	306	163	.....	99.83
W. E. R. and J. B. Nye.....	317	274	.....	1.00
Manuel and Mary Joseph.....	302	154	.....	9.98
J. R. Sibley.....	300	503	.....	3.40
J. D. Sibley.....	315	523	.....	3.30
C. P. Horton.....	298	136	.82	.....
Estate of Joseph Jefferson and A. H. Wood.....	305	235-237	.....	27.73
Gershon Ellis et al.....	305	51	.....	17.04
Albert R. Holway.....	320	383	.....	15.644
Elizabeth Bourne.....	288	551	7.00	.....
Wm. E. Swift et al.....	297	303	.37	3.02
O. R. Swift et al.....	317	60	.....	.84
Annie G. Bourne.....	307	71	.....	.90
Frank C. Eldridge.....	307	406	.....	.04
Libbie C. Brightman.....	307	448	.....	.36
Estate of Mary A. Perry.....	314	374	.....	1.75
Benjamin F. Bourne, jr.....	288	551	12.00	.....
A. P. Swift and M. C. Waterhouse.....	288	384	1.10	.....
Albert R. Eldridge.....	307	69	.....	.58
Isabella D. Nickerson and Hanna E. Parker.....	301, 285	100, 274	.....	3.00
Tryphosa Eldridge.....	205, 307	336, 581	.....	9.85
Walter L. Eldridge.....	298	361	.....	.14
Harriet C. Smalley.....	290	551	.....	1.70
Charles F. Cook et al.....	307	219	.....	2.36
Harry W. Packard.....	306	557	.....	.88
N. E. Bauldry and Ella E. Packard.....	297	506	.....	.26
Oliver H. Eldridge.....	306	586	.....	1.35
Albert R. Eldridge.....	307	69	.....	.75
Heirs of Reuben Collins.....	315	237	.....	.99
Deborah C. Hanley.....	315	43	.....	.03
Sarah Eldridge.....	317	453	.....	.50
Keith Car & Manufacturing Co.....	331	303	.....	3.30
Elwood S. Smalley.....	306	277	.....	.14
Total.....	.....	.....	475.08	457.004

4. Action by Congress authorizing the foregoing negotiations and contract is contained in the rivers and harbors act, approved August 8, 1917 (40 Stat. L. 250), in which the following provision is found:

Waterway connecting Buzzards Bay and Cape Cod Bay, Mass. The Secretary of War, the Secretary of the Navy, and the Secretary of Commerce are hereby authorized to examine and appraise the value of the works and franchises of the Cape Cod Canal, Mass., connecting Buzzards Bay and Cape Cod Bay, with reference to the advisability of the purchase of said canal by the United States and the construction over the route of the said canal of a free waterway, with or without a guard lock, and having a depth and capacity sufficient to accommodate the navigation interests that are affected thereby. This investigation shall be conducted under the direction of the Secretary of War and the supervision of the Chief of Engineers in the usual manner provided by law for making preliminary examinations and surveys, except that the Secretary of War shall call upon the Secretary of the Navy and the Secretary of Commerce for such data and evidence as these Secretaries may wish to have incorporated in the report of the survey; and further, that the final report of the investigation, with its conclusions upon probable cost and commercial advantages in military and naval uses of the said canal, shall be submitted to the Secretary of War, the Secretary of the Navy, and the Secretary of Commerce for their action before it is transmitted to Congress.

If the said Secretaries are all in favor of the acquisition of the said canal, the Secretary of War is hereby further authorized to enter into negotiations for its purchase,

including all property, franchises, and appurtenances used or acquired for use in connection therewith or appertaining thereto; and he is further authorized, if in the judgment of the Secretary of War, the Secretary of the Navy, and the Secretary of Commerce the price for such canal is reasonable and satisfactory, to make contracts for the purchase of the same at the option of the United States, subject to future ratification and appropriation by the Congress; or in the event of the inability of the Secretary of War to make a satisfactory contract for the voluntary purchase of said Cape Cod Canal and its appurtenances, he is hereby authorized and directed, through the Attorney General, to institute and carry to completion proceedings for the condemnation of said canal and its appurtenances, the acceptance of the award in said proceedings to be subject to future ratification and appropriation by Congress. Such condemnation proceedings shall be instituted and conducted in, and jurisdiction of said proceedings is hereby given to, the District Court of the United States for the District of Massachusetts, substantially as provided in an act to authorize condemnation of lands for sites for public buildings and for other purposes, approved August 1, 1888, and the sum of \$5,000 is hereby appropriated to pay the necessary costs thereof and expenses in connection therewith.

The Secretary of War is further authorized and directed to report the proceedings hereunder to Congress.

5. Under the foregoing authority an investigation was made of the so-called Cape Cod Canal property under the direction of the Secretary of War and the supervision of the Chief of Engineers and a report made of the survey and investigation, with conclusions upon probable cost and commercial advantages and military and naval uses of said canal. The report indicated that the then Secretaries of War, Navy, and Commerce were all in favor of the acquisition of said canal, and thereupon negotiations were entered into with the officials of the canal company looking to the acquisition of this property by the Government. In the meantime, a complete audit of the books of the Boston, Cape Cod & New York Canal Co. and the Cape Cod Construction Co., which latter company had done the actual work of construction, was made at the request of the Government by Messrs. Price, Waterhouse & Co., of New York. This audit was completed January 5, 1918. Negotiations for the purchase of the property by the Government resulted in an offer by the then Secretary of War, Hon. Newton D. Baker, of \$8,250,000 for the purchase of the property. This offer was refused by the officials of the canal company and a counter proposition made of \$13,000,000. On January 26, 1919, Mr. Baker notified Mr. Wilson, the vice president of the canal company, that his offer previously made of \$8,250,000 would not be increased, and stated that he was referring the entire matter to the Attorney General with a request that he act under the statute and start condemnation proceedings. Such condemnation proceedings were commenced by petition in the District Court of the United States for the District of Massachusetts on April 1, 1919. A jury trial was had and verdict rendered by the jury November 18, 1919, of \$16,801,201.11, from which was to be deducted \$150,000, an amount found by the jury to be due the United States for "deferred maintenance," so called, consisting largely of dredging, etc., done by the United States while the canal was under Federal control. On writ of error the circuit court of appeals for the first district, on February 16, 1921, set aside the judgment of the district court based upon the verdict referred to and granted a new trial for errors in the admission of testimony and in the court's instructions. (Fed. Rep., vol. 271, p. 877.) Thereupon, the Secretaries of War, Navy, and Commerce opened negotiations for a compromise, which resulted in the agreement between the Secretary of War and the Boston, Cape Cod & New York Canal Co. of July

29, 1921, whereby the price agreed upon for the purchase of the canal company's property, including 932 acres of land outside the canal location and not included in Secretary Baker's offer, was \$11,500,000.

6. The canal was under Federal control and in the possession of the Government at the time condemnation proceedings were begun. It had been taken over on July 25, 1918, by proclamation of the President issued July 22, 1918 (40 Stat. L. 1808). This action of the President was taken under authority of a provision in section 1, Army appropriation act, approved August 29, 1916 (39 Stat. L. 645). The canal property remained under Federal control until March 1, 1920, when it was sought by the Government to return it to its owners. This action was resisted by the officials of the canal company, who took the position (1) that institution of condemnation proceedings in the Federal court at a time when the property was already in the possession of the Federal Government constituted in law a "taking" of the property by the Federal Government; and (2) that there was no provision in the law under which the canal property was taken over or in the proclamation of the President by which it was to be returned to its owners. An arrangement was finally made by which the canal was operated by the general manager of the Cape Cod Canal, Capt. H. L. Colbeth, "for whom it might concern." This status continued from March 1, 1920, to July 29, 1921, the date of the contract or agreement between the canal company and the Secretary of War, ratification of which is asked for by this bill. Since July 29, 1921, the company has been operating the canal in accordance with paragraph 4 of said contract.

7. The question of constructing a canal between Cape Cod Bay (Massachusetts Bay) and Buzzards Bay has been considered at various times since the early history of the Plymouth Colony. In 1776 General Washington, recognizing the military value of a canal at this point, ordered his engineer, Thomas Machin, to investigate the locality in order, as stated, "to give greater security to navigation and against the enemy." The general interest felt in a canal to cross the narrow isthmus between Cape Cod Bay and Buzzards Bay, extending over the entire period of the existence of the United States as a Government, is shown from the following chronological table:

- 1791: John Hills and James Winthrop make survey.
- 1798: James Sullivan and others petition legislature to build.
- 1803: Committee appointed by legislature to interest people in project.
- 1808: Gallatin, Secretary of Treasury, advocated it as "useful in time of war."
- 1812: Isthmus used by small boats to avoid capture by enemy.
- 1818: Israel Thorndyke and Thomas H. Perkins employed Loammi Baldwin to survey route; 5,000 ships rounding cape; United States Senate made survey for a canal sufficient to admit vessels of war.
- 1824: United States, under resolution of Senator Lloyd, ordered Major Perault to make survey; various Army officers reported route practicable.
- 1825: Further surveys made under Government orders until 1827.
- 1828: Government board reports on canal 36 feet wide, 8 feet deep, to cost \$669,522.
- 1844: Lieut. G. S. Blake, United States Navy; survey.
- 1860: Renewed interest by Massachusetts and Government. Surveys by Brig. Gen. J. G. Totten; Prof. A. D. Bache, Superintendent Coast and Geodetic Survey; Commander C. H. Davis, United States Navy; and Lieut. J. Wilkinson, United States Navy. Report on 18-foot canal to cost \$10,000,000.
- 1870: Charter to Cape Cod Ship Canal Co. to Alpheus A. Hardy and others; Maj. Gen. J. G. Foster, United States Army, examining route under orders, reports on practicability of 23-foot canal without locks.

1880: Charter granted to Cape Cod Canal Co.; Henry M. Whitney and others interested; some work done, but project abandoned.

1882: Gen. G. K. Warren, United States Army, Engineers, reports to Government on canal and cost of approaches.

Subsequent to the latter date various companies were formed for the construction of this canal; but no action resulted until June 1, 1899, when a charter was granted by the Commonwealth of Massachusetts to DeWitt C. Flannigan and others under the name of Boston, Cape Cod & New York Canal Co. (Ch. 448, Laws of Massachusetts, 1899, as amended July 17, 1900.) This charter is perpetual, except only as the right is reserved by the State after 20 years from the date of opening the canal to acquire by purchase all of the property of the canal by paying therefor such sum as will reimburse it for the amount of capital paid in with a net profit thereon of 10 per cent a year from the time of the payment thereof by the stockholders. The cost of the work was fixed by the railroad commission of Massachusetts, after submission to public letting, at \$12,000,000. The charter gives the company the right to charge and collect tolls, build and operate wharves, and do other business in connection with the operation of the canal. It provides that the canal shall be constructed at a minimum depth at mean low water of 25 feet and a minimum width on the bottom of 100 feet.

8. February 6, 1907, bids were invited for the work of constructing the canal. The Cape Cod Construction Co. being the lowest bidder, the contract was entered into with this company on March 27, 1907. May 21, 1907, the joint board for the State of Massachusetts approved the plan of the location and the plan for the construction. Actual work was begun on June 19, 1909. The work of construction was performed under supervision of the Joint Board of Railroad and Harbor Commissioners of Massachusetts. Every dollar of expenditure passed under the scrutiny of this board. The canal was opened for traffic for vessels drawing not over 12 feet July 30, 1914. September 15, 1914, vessels of 15 feet draft were allowed to pass through; in April, 1915, vessels of 18 feet draft; on October 1, 1915, vessels of 20 feet draft; May, 1916, the full depth of 25 feet was attained. There were certain conditions in the charter still to be performed, and it was not until January 25, 1918, that the Waterways and Public Lands Commission of the State of Massachusetts declared the canal completed in substantial accord with the provisions of the charter.

9. The following is a description of the canal and its engineering features:

Length of breakwater in Cape Cod Bay.....	feet..	3, 000
Length of canal.....	miles..	8
Depth at mean low water.....	feet..	25
Depth at mean high water at east end or Cape Cod Bay.....	do....	35
Depth at mean high water at west end or Buzzards Bay.....	do....	30
Bottom width, Cape Cod Bay approach.....	do....	300
Bottom width, 1,500 feet at easterly end of canal.....	do....	300
Bottom width, next 5,000 feet.....	do....	200
Bottom width to Buzzards Bay railroad bridge (about 6 miles).....	do....	100
Bottom width, Buzzards Bay railroad bridge westerly for 2,000 feet.....	do....	150
Steepest side slope, one vertical on two horizontal.		
Highway bridge over canal at Sagamore from easterly end.....	do....	2. 25
Highway bridge over canal at Bourne from Sagamore bridge.....	do....	4. 25



Railroad bridge over canal at Buzzards Bay station from Bourne bridge...feet..	.75
Distance of railroad bridge from western entrance of the canal.....do....	.75
The clearance between the fenders of all bridges is.....do....	140
The clearance from extreme high water to underside of—	
Sagamore bridge.....do....	30
Bourne bridge.....do....	30
Buzzards Bay Railroad bridge.....do....	2.5

White electric lights on poles, opposite one another, placed at high-water mark, every 500 feet apart through the canal.

Mooring piles at each end of the canal and on both sides of the three bridges.

Distance saved by canal route over route around cape, 66 miles.

The canal runs through the 8-mile shoulder of "the bare, bended arm of Massachusetts," through a natural valley from Buzzards Bay to Barnstable Bay.

15,000,000 cubic yards of material were excavated.

700 boulders, weighing, in the aggregate, 3,500 tons, were removed.

326,456 tons of stone were placed in the 3,000-foot breakwater at the eastern end of canal.

9,192 tons of stone were placed in a smaller 1,000-foot breakwater at the eastern end of the canal south of the entrance. This breakwater was constructed to prevent the sand from the bay drifting into the canal.

144,397 tons of stone were placed on the banks of canal from 6 feet below low water to 6 feet above high water, for slope protection.

A 5-mile approach channel in Buzzards Bay, from Wings Neck to the western entrance of canal, was dredged. This channel is in Government waters.

The highway bridges were placed across the canal. These are the Sherzer double-lift steel bridges.

One double-track railroad bridge of the Bascule type enables the New Haven Road to cross the canal at Buzzards Bay.

6.3 miles of single track was laid, and 1.2 miles of side track, due to the relocation of the New Haven Road.

4.4 miles of new highways were made to connect the roads.

In its present condition the canal is not capable of rendering maximum service. It should be deepened and widened. The evidence shows that a considerable proportion of the traffic now going around the cape would unquestionably use the canal if this improvement was made. Indeed, it appears probable that practically all the big lines, like the Mallory, the Clyde, and the Merchants & Miners' Transportation Co., would send their boats through the canal, thereby saving a substantial amount both of time and of money, if the recommendations of the Chief of Engineers and of substantially all of the experts who have examined this waterway were carried out. These recommendations involve deepening the canal from 25 to 35 feet, and increasing its width at the bottom from a minimum of 100 feet to a minimum of 200 feet. This result would more certainly follow if in addition to the improvements referred to the canal were operated free from toll charges. The cost of making the improvements above referred to under present conditions is estimated by Col. Edward Burr, of the Corps of Engineers of the War Department, at \$9,800,000, or approximately \$10,000,000, on the assumption that the canal would be closed to traffic while the work was being done; and \$11,500,000 on the assumption that the canal is left open to traffic while the work is being done. Colonel Burr also testified that the estimated cost of constructing from the beginning a canal in this locality without locks, 35 feet deep at mean low water and 200 feet wide at the bottom, based on general and contract prices existing at this time, is \$24,500,000.

10. Captain Colbeth, general manager of the canal company, gave the following statistics showing the traffic using the canal each year since it was opened:

Year.	Number of vessels.	Gross tons.	Year.	Number of vessels.	Gross tons.
1914 (canal opened July 29)...	582	62,787	1919.....	7,452	5,172,714
1915.....	2,689	746,238	1920.....	8,140	4,707,735
1916.....	4,635	3,619,883	1921.....	7,013	4,215,696
1917.....	3,330	2,641,091	1922.....	7,180	4,093,773
1918.....	4,738	3,665,504	1923.....	6,771	4,051,869

Toll charges in the canal, which were not changed during the period of Federal control, vary from 3 cents a gross ton applying to bulk cargo carrying vessels, as for instance vessels in the coal trade, to 10 cents a gross ton, applying to passenger steamers of the type operated by the eastern steamship lines. Extensive studies made by Mr. Robert A. Leshner, a transportation and traffic expert of wide experience, who, at the request of the War Department, had occupied a period of about one year with a number of assistants in surveying the entire field of commercial statistics as found in Government records and many private corporate enterprises, apparently established the following facts:

(1) Vessels will save some considerable distance by using this canal from a point as far south and east as the mouth of the Amazon River on the northern coast of South America; also as far north as the mouth of the St. Lawrence.

(2) The main function of this canal is to handle traffic on the Atlantic seaboard. Coal is the principal commodity moved and originates in the American South Atlantic fields, leaving tidewater principally at Norfolk, Baltimore, Philadelphia, and New York, proceeding north for the most part but principally to Boston, much of it being then distributed to other New England points north of Cape Cod. General merchandise, stone, petroleum and its products, lime, fertilizer, lumber, cement, sand, and cotton also appear in substantial quantities in the traffic using this canal. It is therefore a utility extremely vital to the commerce and the welfare, not only of New England and of the Atlantic seaboard, but of the entire country.

(3) The total traffic in 1920 that passed Cape Cod was 22,718,971 gross tons. The number of voyages was 16,978.

(4) Of this total of 22,718,971 gross tons, there passed through the canal 4,707,735 gross tons, or 20.8 per cent. These figures include a number of cruisers, torpedo-boat destroyers, and submarines, but this is a very negligible proportion of the total.

(5) The amount of gross tonnage the draft of which is such that it could use the canal but did not use it in 1920 is 10,949,168, or 48.9 per cent of the total. This represents 7,479 voyages.

(6) In 1920 there were 7,061,888 gross tons that had to take the outside route around the cape. This was 31 per cent of the total. The number of voyages was 1,359.

(7) The probable increase of traffic passing Cape Cod either going around the cape or going through the canal for the decade between

1920 and 1930 will be approximately 21 per cent and for the succeeding decade 18 per cent. Applying these percentages, the probable traffic passing Cape Cod in 1930 will be between thirty and thirty-five million gross tons and in 1940 between thirty-five and forty million gross tons. These estimates are based upon statistics covering growth of population and production in New England over a period as far back as 1890, but principally for the years between 1897 and 1916, inclusive.

#### 11. During the year 1920—

1,913,196 tons of cargo passed through the canal; the estimated value of this cargo is.....	\$303, 421, 328
The estimated value of the 4,707,735 tons of vessels which passed through is.....	616, 132, 575
Total.....	919, 553, 903

#### During the year 1921—

The estimated value of the 1,372,875 tons of cargo on board vessels passing through the canal was.....	\$307, 128, 688
The estimated value of 4,215,696 gross tons of vessels was.....	478, 748, 840
Making a total of.....	785, 877, 528

#### During the year 1922—

1,238,712 tons of cargo passed through the canal; the estimated value of this cargo is.....	\$386, 453, 727
The estimated value of 4,093,773 tons of vessels which passed through is.....	742, 625, 450
Making a total of.....	1, 129, 079, 177

#### During the year 1923—

1,389,457 tons of cargo passed through the canal; the estimated value of this cargo is.....	\$432, 687, 787
The estimated value of the 4,051,869 tons of vessels which passed through is.....	789, 801, 540
Making a total of.....	1, 222, 489, 327

The number of passengers on vessels carried through the canal during the year 1920 was 119,088, during the year 1921, 112,731; during the year 1922, 113,318, and during the year 1923, 116,309. Following is a tabulation showing comparison of traffic, etc., between the Cape Cod and other canals during the early years of operation:

*Comparative statistics covering general characteristics, number of vessels, and tonnage of vessels passing through five of the principal canals of the world.*

#### GENERAL CHARACTERISTICS.

	Cape Cod Canal.	Manchester Canal.	Kiel Canal.	Suez Canal.	Panama Canal.
Work begun.....	1909.....	1894, opened.....	1887.....	1869, completed.....	1904.....
Original length.....	13 miles.....	35½ miles.....	61 miles.....	90 miles.....	44 miles.....
Original depth.....	25 feet.....	26 feet.....	29½ feet.....	26 feet.....	41 feet.....
Original width.....	100 feet.....	120 feet.....	72 feet.....	72 feet.....	300 feet.....
Cubic yards excavated.....	16,000,000.....	45,000,000.....	100,000,000.....	80,000,000.....	195,323,379.....
Original cost.....	\$12,000,000.....	\$75,000,000.....	\$40,000,000.....	\$95,000,000.....	\$375,000,000.....

*Comparative statistics covering general characteristics, number of vessels, and tonnage of vessels passing through five of the principal canals of the world—Continued.*

NUMBER OF VESSELS WHICH PASSED THROUGH CANALS.

	Cape Cod Canal.	Manchester Canal.	Kiel Canal.	Suez Canal.	Panama Canal.
First year of operation.	1 582	* 4,551	* 16,834	4 10	* 1,088
Second year of operation.	2,689	4,761	19,960	486	787
Third year of operation.	4,635	5,156	23,108	765	1,876
Fourth year of operation.	3,330	5,132	25,816	1,082	2,130
Fifth year of operation.	4,738	5,809	26,279	1,173	2,107
Sixth year of operation.	7,452	5,182	29,045	1,264	2,478
Seventh year of operation.	8,140	5,362	30,161	1,494	2,892
Eighth year of operation.	7,013	5,008	32,010	1,457	.....

TONNAGE OF VESSELS WHICH PASSED THROUGH CANALS.

	1 1914.	* 1894.	* 1896.	* 1869.	* 1915.
First year of operation.	1 62,787	* 720,425	* 1,505,983	4 10,557	* 5,416,787
Second year of operation.	746,238	879,204	1,848,458	654,915	3,596,529
Third year of operation.	3,619,883	1,094,837	2,469,795	1,142,200	8,530,821
Fourth year of operation.	2,641,091	1,139,733	3,117,840	1,744,481	9,371,339
Fifth year of operation.	3,665,504	1,350,428	3,488,767	2,085,072	7,876,703
Sixth year of operation.	5,172,714	1,395,702	4,282,094	2,423,672	11,057,819
Seventh year of operation.	4,707,735	1,492,320	4,285,301	2,940,708	14,522,415
Eighth year of operation.	4,215,696	1,454,999	4,573,834	3,072,107	.....

Owing to conditions incident to the World War, it is believed that the canal has never had a fair opportunity to demonstrate its real earning power. General operation of the canal began in 1916, but it was not officially declared to be completed in accordance with the terms of its charter until January 25, 1918. During this period practically everything that could sail in deep water was engaged in trans-Atlantic service. Six months after completion it was taken over by the Federal Government. Just prior to its being taken over its toll charges upon coal were reduced. This was done at the suggestion of the Director General of Railroads. Very substantial increases in operating expenses were imposed upon this property during the 20 months it was under Federal control and yet no increase in any toll charges was made during this period. To cite a single example, it was thought necessary to engage in certain extensive dredging operations in the canal and its approaches. A large dredging machine was leased for this purpose at a rental of \$1,000 per day. It took 40 days to make repairs upon this machine before it was ready to begin operations. The cost of these repairs amounted to \$67,000, which added to the rental of \$40,000 made a total cost of \$107,000 on account of this dredging machine before it was able to do any work at all. This entire cost was charged up as a part of the operating expense of the canal property during Federal control and forms a part of the claim of the Government for "deferred maintenance," heretofore referred to. Exhibit 1, appended hereto, shows that both



before and after the period of Federal control the canal, with the exception of the first year of its operation, was yielding a revenue more than sufficient to pay all of its operating expenses. Evidence before the committee seemed to establish the fact that during the first six months of the year 1918, prior to taking over this canal by the Federal Government, it had been receiving revenue at a rate sufficient to pay all its operating expenses and fixed charges.

During the period between March 1, 1920, and July 29, 1921, when the canal was being operated by Mr. Colbeth "for whom it might concern," it yielded a revenue sufficient to pay all operating costs and maintenance charges and had in the Treasury at the end of this period a surplus of approximately \$200,000. Evidence of present earning capacity of the canal was to the effect that sufficient revenue is being produced from tolls at the present time to meet all operating costs and maintenance charges. By paragraph 4 of its contract with the Secretary of War the company has guaranteed that it will operate the canal until the agreement is ratified and title passes to the United States; also that it will pay all operating and maintenance expenses arising after the date of the contract, interest accruing thereafter, administration charges arising thereafter, and leave a balance in the company's treasury from revenues received by it subsequent to the date of the contract, which balance it will turn over to the United States at the time title passes, amounting to at least \$100,000.

12. The cost of constructing the Cape Cod Canal is stated in the report of Messrs. Price, Waterhouse & Co., international chartered accountants, who were specially engaged by the United States Army engineers to make a complete examination of the accounts of the Boston, Cape Cod & New York Canal Co. and the Cape Cod Construction Co. They reported the combined expenditures of both companies to August 31, 1917, as follows:

Cash expenditures for direct and overhead costs.....	\$8, 265, 743. 04
Payments with securities in lieu of cash for engineering and other services.....	400, 000. 00
Payments with securities for franchise rights and 70 per cent of land required for right of way.....	1, 660, 000. 00
Cost of providing capital to proceed with work and to complete construction of canal.....	1, 006, 250. 00
Expenditure of working capital in development up to Aug. 31, 1917.....	1, 527, 198. 42
Contingencies as of Aug. 31, 1917.....	806, 887. 04
Sundry working assets.....	97, 526. 85
Total investment on Aug. 31, 1917.....	13, 763, 605. 35

From August 31, 1917, to the present time the companies have had the burden of carrying the property during the war, and as no compensation for the use of the property for the 20 months while under the United States Railroad Administration has been paid or allowed, the additional cost to the companies has been \$1,616,590.39, making a total of \$15,380,195.74, and it is estimated that the cost of the proceedings to the company for the condemnation of the property, including services of its attorneys and other legal obligations, amount to at the present time \$750,000, making a grand total cost at the present time of \$16,130,195.74. Evidence before the committee shows that in addition to the six million first-mortgage bonds, its

present cash obligations aggregate \$8,500,000, so that the actual loss to the company under the terms of the proposed purchase will be approximately \$3,000,000. (The statement in this paragraph was made as applying at the time of the hearings in the early part of 1922, and is substantially correct at the present time.)

13. The strategic importance of this canal from a military and naval standpoint has been emphasized by Maj. Gen. William M. Black, Chief of Army Engineers, in his report to be found in the hearings; also in testimony of Hon. John W. Weeks, Secretary of War, and Hon. Edwin Denby, Secretary of the Navy. Perhaps no stronger argument of the importance of the canal from the standpoint of national defense can be urged than the fact that the next day after a German submarine appeared off the coast of Cape Cod and shelled a tug and coal barges, the President of the United States by special proclamation dated July 22, 1918, took over the control and operation of this waterway from and after July 25, 1918, placing it under the jurisdiction and control of the Director General of Railroads. In this proclamation the President used the following language in the preamble:

Whereas it has now become necessary in the national defense to take possession and assume control.

During this menace from the German submarine the port of Boston was closed, and only vessels routed via the Cape Cod Canal were permitted to leave port.

14. The maintenance of the Cape Cod Canal is also of prime importance from a humanitarian standpoint. There is probably no place on the whole coast line more to be dreaded by the mariner than Cape Cod on account of the frequent storms, winds, strong currents, shoals, and the prevalence of thick fogs. It is one of the most treacherous places in the world. Ships not passing through the canal are frequently tied up in Vineyard Haven and other harbors anywhere from one day to two weeks, lying at anchor waiting for a chance to get over the shoals. The records show over 1,000 marine disasters to ships and boats going around the cape between 1880 and 1903. It also appears in evidence that from July 1, 1907, to June 30, 1917, a period of 10 years, casualties to vessels passing Cape Cod, including Nantucket Shoals, Nantucket Sound, Marthas Vineyard, and Vineyard Sound, involved vessels to the number of 326 of a total tonnage of 190,105 and of property valued at \$12,761,920. Of this total property involved \$1,653,770 in value was lost. During the same period the lives of 3,900 persons on board these vessels were also involved, of which the records show that 32 were lost. The Government of the United States has long recognized the extreme danger to navigation in this locality. For many years it has maintained 13 life-saving stations between Monomy Bay and Wood End Cape Cod, a distance of about 40 miles. During the fiscal year ended June 30, 1920, the assistance rendered by United States Coast Guard cutters and stations from Callyhunk to Provincetown involved the saving of life and property, and shows the value of vessels in jeopardy at \$16,477,000.

15. From the testimony taken by the committee it is apparent that this canal is of paramount value to the shipping interests not only of the Atlantic and Gulf coasts but also of the Pacific, whose

use of this waterway is now made possible by the successful operation of the Panama Canal. The president of the Eastern Steamship Lines, which last year handled 260,000 tons of freight through the canal and 112,000 passengers, upon which tolls were paid to the canal company amounting to \$193,000, stated in his testimony that his company could not continue its business of transporting passengers and freight without the use of this canal, as the outside route around Cape Cod is too long and treacherous. The Secretary of War, Secretary of Navy, and Secretary of Commerce all appeared before the committee and earnestly advocated the purchase of this canal under the terms proposed, as did also representatives of the United States Shipping Board and Emergency Fleet Corporation, and Mr. Frank C. Wright, marine director in charge of waterways of the United States Railroad Administration. Mr. Wright, in answer to a question as to whether the canal was used during the period of Federal control by Army and Navy vessels, made the following statement:

Oh, yes. It was especially popular with the Navy. It was a perfectly safe route from the Boston Navy Yard to the New York Navy Yard for destroyers and smaller craft, cruisers. Had it been battleship size \* \* \* I was assured by a naval officer at the time that they would all have used it and nobody would have gone outside. The saving in time was immense, and there was no danger from torpedoes or anything of that sort. In a night's run they could go from one navy yard to the other. It is very short, you know, because it is almost an air line up the Sound through that canal.

Again, in answer to a question as to whether the increased usefulness of the canal at a depth of 35 feet would justify the expenditure necessary to bring it to that depth and to a width of 200 feet, it being assumed that the increased cost would be something like double its present cost, Mr. Wright said:

Its usefulness would be more than doubled. I should say it would be the square or the cube of its present usefulness, because to-day its usefulness is limited. It is not getting the traffic it would if it were larger or toll free.

Mr. Wright also stated that he considered the canal by far the most important link in the whole intracoastal canal system.

16. Considering all the investigations as to value, including original and reproduction costs and allowing for abnormal conditions existing during the period of the World War, the lack of opportunity for the canal to demonstrate its full earning capacity, the great amount of traffic, actual and potential, the very large value of the canal from the standpoint of national defense as well as from an economic and humanitarian standpoint, as a safeguard against the perils of the sea, your committee believes that the purchase of the waterway at a price of \$11,500,000, as provided in the contract hereinbefore referred to, is clearly in the public interest, and that the agreement entered into by the Secretary of War on behalf of the Government should be ratified by the Congress of the United States.

EXHIBIT 1.—Number and classification of vessels, gross and cargo tonnage, passengers carried, revenue, and operating expenses of Cape Cod Canal.

Year.	Class A, yachts.		Class B, passenger and freight steamers, tugs.				Class C, crude-material steamers, barges, boxes, schooners, and fishing vessels.								Class D, Government vessels.		Total.		
	Number of ves- sels.	Gross tons.	Number of ves- sels.	Gross tons.	Pas- sen- gers car- ried.	Cargo tons.	Number of vessels.						Gross tons.	Cargo tons.	Number of ves- sels.	Gross tons.	Number of ves- sels.	Gross tons.	Cargo tons.
							Steamers, barges, boxes.		Schooners.		Fish- ing ves- sels.	Total.							
							Loaded.	Empty.	Loaded.	Empty.									
1914.....	399	21,303	4	259	.....	.....	19	155	.....	.....	.....	174	38,380	.....	5	2,845	582	62,787	.....
1915.....	1,033	74,019	318	79,968	.....	.....	421	690	149	8	.....	1,268	551,606	.....	70	40,645	2,689	746,238	.....
1916.....	945	80,049	799	2,032,506	139,917	268,397	1,178	1,145	418	47	.....	2,788	1,442,045	938,566	103	65,283	4,635	3,619,883	1,206,963
1917.....	354	15,609	642	1,680,834	117,109	394,272	748	855	282	30	223	2,138	846,106	798,657	196	98,542	3,330	2,641,091	1,192,929
1918.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
January-July.....	77	1,702	337	530,165	40,966	169,919	550	555	16	10	370	1,501	811,108	591,737	204	115,481	2,119	1,458,456	761,656
August-December <sup>1</sup> .....	.....	.....	.....	.....	41,022	112,253	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	2,619	2,207,048	1,076,020
Total <sup>1</sup> .....	.....	.....	.....	.....	81,988	282,172	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	4,738	3,665,504	1,837,676
1919 <sup>1</sup> .....	708	37,082	1,858	2,046,669	112,128	287,422	1,854	1,627	164	24	714	4,383	2,831,158	2,309,400	503	257,855	7,452	5,172,714	2,596,822
1920. <sup>1</sup> .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
January-February <sup>1</sup> .....	2	489	219	136,724	.....	37,745	152	143	6	1	17	319	254,378	196,259	21	17,296	561	408,887	234,004
March-December.....	810	36,357	2,805	2,220,108	119,088	213,975	1,276	1,211	68	24	1,182	3,761	1,888,087	1,455,217	203	154,296	7,579	4,298,848	1,669,192
Total.....	812	36,846	3,024	2,356,832	119,088	251,720	1,428	1,354	74	25	1,199	4,080	2,142,465	1,651,476	224	171,592	8,140	4,707,735	1,903,196
1921 <sup>5</sup> .....	756	37,627	2,546	2,497,216	112,731	272,249	969	924	29	13	968	2,903	1,445,171	1,100,102	320	230,637	7,013	4,215,696	1,372,875
1922.....	934	48,591	2,268	2,727,671	113,318	364,549	797	744	28	14	2,200	3,783	1,215,124	873,653	195	102,387	7,180	4,093,773	1,238,712
1923.....	830	49,176	2,453	2,618,334	116,309	391,975	919	839	23	6	1,538	3,325	1,283,350	997,322	163	101,009	6,771	4,051,869	1,389,457



Year.	Income and expense account operations at the canal.															
	Receipts from tolls, anchorage.	Expenses of operation at canal.	Profit.	Loss.	Receipts from towage.	Expenses of towage.	Profit.	Loss.	Receipts from pilotage.	Expenses of pilotage.	Profit.	Loss.	Total.			
													Receipts.	Ex-penses.	Profit.	Loss.
1914.....	\$14,373.03	\$18,063.36	.....	\$3,690.33	\$514.00	\$4,695.00	.....	\$4,181.00	.....	\$600.00	.....	\$600.00	\$14,887.03	\$23,358.36	.....	\$8,471.33
1915.....	66,283.21	43,727.74	\$22,555.47	.....	3,557.78	23,876.88	.....	20,319.10	.....	2,050.00	.....	2,050.00	69,840.99	69,654.62	\$186.37	.....
1916.....	227,443.29	84,861.84	142,581.45	.....	17,813.78	107,927.85	.....	90,114.07	.....	2,895.03	.....	2,895.03	245,257.07	195,684.72	49,572.35	.....
1917.....	225,904.23	169,101.78	56,802.45	.....	24,729.78	65,606.04	.....	40,876.26	.....	.....	.....	.....	250,634.01	234,707.82	15,926.19	.....
1918.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
January-July.....	89,673.95	48,094.15	41,579.80	.....	1,833.00	10,699.32	.....	8,866.32	.....	.....	.....	.....	91,506.95	58,793.47	32,713.48	.....
August-December <sup>1</sup> .....	132,705.91	439,941.50	.....	307,235.59	33,806.39	168,920.13	.....	135,113.74	\$9,769.00	10,641.60	.....	872.60	176,281.30	619,503.23	.....	443,221.93
Total <sup>1</sup> .....	222,379.86	488,035.65	.....	265,655.79	35,639.39	179,619.45	.....	143,980.06	.....	.....	.....	.....	267,788.25	678,296.70	.....	410,508.45
1919 <sup>1</sup> .....	313,474.83	677,015.32	.....	363,540.49	78,401.91	286,984.60	.....	208,582.69	16,778.90	21,600.00	.....	4,821.10	408,655.64	985,599.92	.....	576,944.28
1920. <sup>1</sup> .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
January-February.....	17,251.04	55,979.71	.....	38,728.67	2,769.50	20,966.46	.....	18,196.96	2,171.00	3,600.00	.....	1,429.00	22,191.54	80,546.17	.....	58,354.63
March-December.....	318,724.12	126,577.31	192,146.81	.....	2,636.50	( <sup>2</sup> )	\$2,636.50	.....	\$10,818.00	\$10,800.00	\$18.00	.....	332,178.62	137,377.31	194,801.31	.....
Total.....	335,975.16	182,557.02	153,418.14	.....	5,406.00	( <sup>2</sup> )	.....	15,560.46	12,989.00	14,400.00	.....	1,411.00	354,370.16	217,923.48	136,446.68	.....
1921 <sup>5</sup> .....	338,957.64	218,812.93	120,144.71	.....	2,289.00	.....	2,289.00	.....	.....	.....	.....	.....	341,246.64	218,812.93	122,433.71	.....
1922.....	344,138.90	142,307.62	201,831.28	.....	2,262.25	( <sup>2</sup> )	2,262.25	.....	.....	.....	.....	.....	346,401.15	142,307.62	204,093.53	.....
1923.....	478,645.39	201,383.62	277,383.62	.....	316.75	( <sup>2</sup> )	316.75	.....	.....	.....	.....	.....	478,962.14	201,261.77	277,700.37	.....

<sup>1</sup> Under United States Railroad Administration.<sup>2</sup> Towing done by launches.<sup>3</sup> To Aug. 31, 1920.<sup>4</sup> Canal Pilots' Association.<sup>5</sup> Anchored vessels: Number of vessels, 488; gross tons, 5,045; cargo tons, 524.

## VIEWS OF THE MINORITY

This bill came to the Senate May 14, 1924, and was referred to the Committee on Commerce.

Certain hearings were had to which we invite attention.

### IMPORTANCE OF THE WATERWAY

There is no question in our mind about the importance of this canal. There ought to be a usable waterway connecting Buzzards Bay, Mass., and Cape Cod Bay, Mass. It ought to be adequate to serve the commercial needs. In connection with national defense it merits consideration likewise, but military authorities do not attach much value to it. It affords means of avoiding the dangers and the losses which must be encountered without it.

As an original proposition, if the existing Cape Cod Canal had never been constructed and if it should not be undertaken by private enterprise, we would feel that the Government ought, when the need for economy is not as pressing as now, to construct some such canal along practically the same location, in the public interest and in pursuance of its established policy.

This canal has been built and the owners desire to sell and transfer it and all their rights and holdings to the Government.

We feel that ultimately navigable waterways should be controlled by the Government and should be free of tolls.

It is in accord with the established policy for the Government to acquire and maintain such waterways if that can be done at reasonable cost and on a basis of commercial justification.

### PRESENT STATUS

This canal is about 8 miles in length, with about 6 miles of shallow water through which the channel extends at the ends, is 100 feet wide at the bottom, and has a depth of 25 feet at mean low water. It is affected by the tides 4 feet at the west end and  $9\frac{1}{2}$  feet at the east end. There are no locks, but there are bridges, navigation aids, jetties, and shoaling to be cared for.

Being an important waterway and one which should be maintained, we favor taking it over eventually, provided the cost is fixed within what we regard reasonable bounds.

The humanitarian considerations, avoidance of the loss of life and property, dangers and risk, which navigation would otherwise encounter, and saving in distance, have already been met. The canal is there and in operation.

### ARRIVING AT THE COST AND VALUE OF THE CANAL

The canal company was organized for the purpose of building the canal and capitalized at \$6,000,000, and arranged to issue bonds to the amount of \$6,000,000.

There was organized the Canal Construction Co. by practically the same parties, and the Canal Construction Co. contracted with the canal company to build the canal for \$12,000,000.

One million dollars was paid into the Canal Construction Co. as working capital, \$200,000 of which had to be deposited with the State of Massachusetts. As the work proceeded bonds and stock of the canal company were turned over to the construction company which handled them with the same people who were interested in both companies largely. They were not sold to the public generally. The bonds were taken at 95. For instance, when the canal company delivered to the canal construction company a bond for \$1,000 the latter company realized on it \$950, and along with the bond for \$1,000 went \$300 of capital stock, on which nothing was realized. The construction company therefore realized from the bonds \$5,700,000, which was used in the building of the canal.

Of the stock \$1,800,000 was turned over as a bonus, or at any rate without producing any cash, and \$3,337,500 of the stock is in the treasury of the construction company. These together make \$5,137,500 of stock upon which nothing has been realized and therefore not used in the construction. That would leave \$862,500 as the amount realized from the proceeds of the stock of the canal company. Add to that \$1,000,000 paid into the construction company and we get the amount used in the building of the canal from that source. Add this sum to the \$5,700,000 realized from the bonds and we have a total of \$7,562,500 used in the building of the canal.

There were losses in operation and extra expenses and some outstanding obligations for construction for which notes were issued and guaranteed, at least some of them, by those who were officers of of the canal company and the Canal Construction Co. These amounted, according to Mr. Coakley, the treasurer (p. 47 of the Senate hearings), to \$2,280,000.

Suppose the proceeds of these notes went into the construction of the canal and acquiring the property and rights mentioned, and add this to the figures above mentioned, and we have \$9,842,500 as the amount expended in connection with the whole enterprise.

Captain Colbeth, who has been in charge of the canal all along since February 1, 1917, and who is now the manager for the Boston, Cape Cod & New York Canal Co., testified that the profits over and above operation and maintenance since the Government relinquished control have amounted to more than a million dollars. (P. 32 of the Senate hearings.)

He has entire control over the operation of the canal, and he further testified that these profits have gone to the corporation.

If we deduct this amount of \$1,000,000 from the total proceeds of bonds and stocks and notes, we have \$8,842,500.

It is estimated that \$50,000 a year ought to take care of maintenance.

The statement of Captain Colbeth is as follows (p. 32 of the Senate hearings):

Senator FLETCHER. Under the head of "Expenses," would that include maintenance?

Captain COLBETH. Operation and maintenance; yes, sir. In 1921 the receipts were \$341,246.64; expenses, \$218,812.93; profits, \$122,433.71. In 1922 the receipts were \$346,401.15; expenses, \$142,307.62; profits, \$204,093.53. In 1923

the receipts were \$478,962.14; expenses, \$201,261.77; profits, \$277,700.37. In 1924, for 10 months, the receipts were \$416,520.25; expenses, \$148,490.93; profits, \$268,029.32, which amounts to something over a million dollars profit since the Government relinquished control.

Senator FLETCHER. And the profits increased since you raised your tolls?

Captain COLBETH. Yes, sir.

Senator COUZENS. May I ask at this point where those profits are, since the Railroad Administration released the canal?

Captain COLBETH. They have gone to the corporation.

Senator COUZENS. The profits have gone to the corporation?

Captain COLBETH. Yes, sir.

#### GOVERNMENT CONTROL

The canal was taken over by the Government July 25, 1918, under authority of a provision in section 1, Army appropriation act, approved August 29, 1916.

It remained under Federal control until March 1, 1920, when the Government relinquished control and endeavored to return the property to its owners. The company declined to accept it, but an arrangement was finally reached by which the canal was to be operated by the general manager of the company "for whom it might concern." However, the company has used the profit above mentioned in its own way and without any consultation with or reference to the Government, as shown by Mr. Coakley's statement. (P. 46 of the Senate hearings.)

Senator FLETCHER. How much has gone into the treasury of the company since you resumed control of the canal?

Mr. COAKLEY. Captain Colbeth testified that since March 1, 1920, the operating surplus was turned in to the corporation. As a matter of fact, that has all got to be accounted for to the Government under the terms of the contract made with Secretary Weeks.

Senator COUZENS. How much money is in that fund now?

Mr. COAKLEY. Well, with regard to the operating surplus up to the end of October of this year I think it is about \$70,000. We would have to make good on the difference on the \$100,000 guaranteed. There is no question about that.

Senator COUZENS. What has become of this million dollars that the captain testified as having been turned in since the property went back from the Railroad Administration to the canal company?

Mr. COAKLEY. Well, the interest on the floating debt—(I just spoke of one issue of \$2,000,000), in all, \$2,280,000 notes. That takes up \$130,000 a year.

Senator COUZENS. So that, as a matter of fact, as I understand you, \$100,000 is the maximum amount the canal company guaranteed to turn in to the Government?

Mr. COAKLEY. That was the guaranteed surplus of \$100,000 from operating. I understood at the time that the period over which that guaranty would extend would be only until the following December, 1921, during which period we would have what I might call the "fat" months of operation—August, September, and October, which are our big earning months. The Secretary who made that bargain insisted that the surplus from those months must be turned over to the Government.

Senator COUZENS. For only those months?

Mr. COAKLEY. No, he didn't specify the months—the surplus, if it was \$100,000 or \$1,000,000, whatever the amount might be.

Senator COUZENS. I understand, from what the captain testified, that they turned in since the canal went back to the canal company over \$1,000,000 over the operating expenses.

Mr. COAKLEY. Yes, sir.

Senator COUZENS. Do I understand that the Government gets that?

Mr. COAKLEY. No; that would be a faulty understanding. The contract provides:

"If, after paying all operating and maintenance expenses hereafter arising, interest hereafter accruing on present floating indebtedness, administration



charges hereafter arising, and the cost of establishing the depth mentioned in paragraph 3, any balance remains in the company's treasury from revenues received by it subsequent to the date of this offer, the company agrees to pay this balance to the United States at the time title passes; but the company further agrees that in any event this balance will be at least \$100,000."

While the company refused to take back the canal, it has had its representatives here Congress after Congress trying to have the Government buy it.

#### FUTURE EXPENDITURES PROBABLY REQUIRED

The canal will be of little service in national defense unless it be deepened and widened.

The hearings all indicate that it is contemplated eventually to ask that it be enlarged to a depth of 35 feet and a width of 200 feet at the bottom, and this would cost at least \$10,000,000, and probably more.

We quote from the views of Mr. Huddleston, attached to the House report on the bill:

#### AGREED PRICE TOO HIGH

It is not my desire to discuss at length the price Mr. Weeks proposes to pay for the canal. Mr. Baker, after careful investigation, refused to offer more than \$8,200,000 for it. He had gone into the matter exhaustively. See his report to Congress, page 213 of hearings; also see report of General Black, page 214 of hearings.

The Government had employed a firm of accountants, Price, Waterhouse & Co., who examined the canal company's books and accounts exhaustively. The direct cost of actual construction of the canal was found to be \$6,243,171.01; interest and taxes during construction, \$748,112.40; total, \$8,265,743.04, substantially the same as the amount which Mr. Baker had offered to pay. The canal company claimed that in addition to above items of direct cost they had expended \$4,787,410.67 in capital stock for rights, franchises, and services of promoters, etc., making a total alleged cost of \$13,053,153.71, counting the stock and bonds at par.

Mr. Baker's offer of \$8,200,000 for the canal was based upon the Report of the Board of Engineers for Rivers and Harbors. See page 218 of hearings. I quote from section 16 of said report, as found on page 221 of hearings:

"While the board has concluded that \$10,000,000 would be a fair price for the canal, based upon the reported expenditures, it is not convinced that an investment of this amount is justified on the part of the United States in order to make this a free waterway. The information submitted indicates that the claimed advantages of this route over the outside one around Cape Cod have diverted from the latter only about one-fifth of its tonnage. \* \* \*. At 4 per cent, the interest on \$10,000,000 would amount to \$400,000 a year, and, allowing \$200,000 a year for the cost of maintenance and operation, the total annual charges on this basis would amount to \$600,000.

"The saving to be effected by the canal is estimated by various parties interested at from 5 to 10 cents a ton. Assuming a saving of 8 cents a ton, a commerce of 7,500,000 tons a year would be required in order to make a saving equal to this estimated annual cost to the public of acquiring and operating the present canal without enlargement or further protection. This is more than one-half the total annual cargo movement between New England and points south, as estimated by Colonel Shunk in paragraph 4 of his report on May 13, 1918. (See p. 77.) Assuming that the saving should be at least double the cost to the public in order to warrant the charge upon public funds, the admissible public charge for this tonnage, which is far in excess of the traffic to be expected in the near future, should not exceed \$300,000. Subtracting \$200,000 for annual cost of maintenance leaves \$100,000 for interest charges, which at 4 per cent corresponds to a capital investment of \$2,500,000. This amount therefore is apparently an upper limit of any justifiable expenditure by the United States to acquire public ownership for commercial purposes."

I ask close study of the report of the Board of Engineers for Rivers and Harbors from which I have quoted this extract. It shows why the owners of the

canal want to sell. It shows that the canal can never be a success as a commercial proposition. It shows that no private interest can afford to own the canal.

Now, manifestly, if the canal is worth only \$2,500,000 to a private interest, it is worth no more to the Government. It can not possibly be worth more to the Government than the benefit which the general public—users of the canal—can derive from its toll-free operation. The fact that the Government is to bear the cost of owning and operating the canal is unimportant. The Government can not afford to own and operate unless its citizens—the public—derive a benefit equal to its cost of owning and operating. Such benefit, of course, may not be wholly reflected in terms of toll-earning capacity. Subject to this thought, it is clear that any price which the Government may pay for the canal above what it could be made to earn interest upon if privately operated is excessive.

Our conclusion is that if we are to buy the canal now the bill ought to be amended authorizing the Secretary of War to proceed further with negotiations and acquire the property described in the bill provided the entire cost to the Government shall not exceed \$9,000,000, with interest on the bonds, as mentioned in the bill. This would involve changing, in section 2, the figure \$5,500,000 to \$3,000,000 and other modifications of the bill.

It is for Congress to determine whether the contract dated July 29, 1921, executed by the Boston, Cape Cod & New York Canal Co., shall be ratified or not.

In our view, that contract, which calls for an expenditure of \$11,500,000, with interest on the bonds since December 31, 1921, to wit, 5 per cent on \$6,000,000 for three years to January 1, 1925, \$900,000, making a total cost to the Government of \$12,400,000, should not be ratified.

In our judgment, the total cost should not exceed \$9,900,000 instead, and we favor such amendments and modifications as will conform to this report.

This canal is now in operation. All the benefits that come from it are enjoyed by commerce the same as if the Government owned it. The only relief or benefit that would come by Government acquisition would be relief from payment of tolls. Vessels can avoid this by taking a little more time. With the pressing need for economy in Government expenditures to-day, we do not believe this expenditure of several million dollars from the Public Treasury is justified now for the benefit of the private interests that own and that use the canal. We have no assurance that any one will be benefited but those who own and use the canal. They will pass no benefit on to the people who buy from them.

DUNCAN U. FLETCHER.

W. L. JONES.

JAMES COUZENS.